IN THE HIGH COURT OF UTARANCHAL AT NAINITAL

Writ petition No. 2078 (M/S) 2001

(Old No. 15226 of 2000)

Bhawani Devi ---Petitioner

Vs.

State of U.P. through Distt. Magistrate,
Nainital, and others ----Respondents.

AND

Writ petition No. 2080(M/S) 2001

Bhawani Devi ---Petitioner

Vs.

State of U.P. through Distt. Magistrate,
Nainital, and others ----Respondents.

Hon'ble P.C.Verma, J.

Heard Sri P.N.M. Singh, learned counsel for the petitioner and Sri Manoj Tewari, Advocate as well as learned Standing Counsel for the respondents.

These writ petitions have been filed by the petitioners seeking writ of mandamus to command the respondents not to dispose of, alienate or transfer the property in dispute in writ petition No. 14694/1982 pending in the Allahabad High court.

In the writ petition No. 14694/1982 the petitioners of that writ petition, the respondents in the present writ petition, have challenged the order of the Board of Revenue dated 06.12.1982 passed in IInd Appeal No. 58/1978-79 whereby the learned Board of Revenue has allowed the appeal of the petitioners and remanded the matter to be decided afresh in the Ist Appeal by the Commissioner.

A suit under Section 229-B U.P. Z.A. & L. R. Act was filed by the respondents for declaring their right and title over the land in dispute against the petitioner of these writ petitions. The suit of the respondents was allowed against the petitioner, against which the petitioner has filed an appeal, which went upto II Appeal No. 58/1978-79 which was remanded. After writ petition was filed on 06.2..1982, the Ist Appeal cannot be decided in view of the said order in writ petition No. 14694/1982.

Sri P.N.M. Singh, learned counsel for the petitioner made an statement at bar that he does not want to press writ petition No.

14694/1982 and it may be treated to have been dismissed as not pressed and the said order, if any, it treated to be vacated and the Commissioner Kumaun Mandal, Nainital may be directed to decide the appeal which is remanded by the Board of Revenue vide its order dated 06.12.1982.

In view of the aforesaid statement at bar, it is provided tht the Commissioner Kumaun Mandal, Nainital shall decide the appeal within a period of two months from the date of production of certified copy of this order. Till the decision in appeal, the respondents of these writ petitions shall not alienate, transfer or change the nature of the land in dispute in any manner, whatsoever.

With the aforesaid observations, both the writ petitions are disposed of.

(P.C.Verma, J.)

October 9, 2003:
NCM: